

Application No. 10/507,404
Amendment dated: March 8, 2006
Reply to Office Action of December 20, 2005

Docket No.: 209546-84417

REMARKS

Claims 1-8 are pending in this application. By this amendment, claim 1 is amended. Favorable reconsideration is respectfully requested in light of the foregoing amendments and the following remarks.

Applicant thanks Examiner Menezes for providing the indication that claims 7 and 8 contain allowable subject matter. Applicant respectfully submits, however, that independent claims 1, as amended, also contains allowable subject matter.

The Office action rejected claims 1-4 and 6 under 35 U.S.C. §102(b) over Scott et al. (U.S. Patent No. 3,521,413), and claim 5 under 35 U.S.C. §103(a) over Scott et al. (U.S. Patent No. 3,521,413) in view of Frischmann et al. (U.S. Patent No. 6,676,346). In light of the amendments to the claims and the following remarks, the rejection is respectfully traversed.

Amended claim 1 includes, among other limitations, "a head operatively coupled to said shank such that the head is adapted to **non-frangibly detach** from said shank, and wherein said head includes a trim retaining end for securing the trim panel, a shank engaging end, and a break neck therebetween, and further wherein said trim retaining end is further adapted to break from said head at said break neck when a load is applied to said head."

None of the references of record disclose, teach or suggest at least this feature. For example, under the Action's prior characterization of Scott, Scott teaches a unitary break away member having a reduced cross section at an intermediate portion 32, i.e., the intermediate portion 32 resides between what was earlier characterized as the head and the shank. But, Scott does not disclose, teach or suggest that a head may be operatively coupled to a shank such that the head is adapted to **non-frangibly detach** from said shank as well as break therefrom.

Similarly, Frischmann discloses a fastening element having an expansion sleeve, but does not disclose, teach or suggest a connector having a head operatively coupled to a shank such that the head is adapted to **non-frangibly detach** from said shank.

While Applicant appreciates that Frischmann was cited to obviate claim 5 in view of Scott, Applicant questions how the references can be combined without substantially modifying one or both of the references in light of Applicant's specification. And, even *assuming arguendo* that the arts can be combined, Applicant reminds the Office that the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art suggests the desirability of the combination. *See M.P.E.P.*, §2143.01, Part

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III. Scott is directed to a breakaway base support for roadside standards, such as lampposts and the like. The breakaway member introduced by Scott is received in "an internal threaded sleeve 28" to threadably engage the projecting end of the anchored studs and an externally threaded lower end of the break away member. *Scott, Col. 3, ll 18-21*. Frischmann discloses a metal fastening element, and is *completely devoid* of any teaching or suggestion of a breakaway portion. Therefore, one of ordinary skill in the art would not look to Frischmann to supplement the deficient teachings of Scott. Thus, Applicant submits that the prior art does not suggest the desirability of combining Scott with Frischmann, and the desirability gleaned in the recent Office action is based on Applicant's disclosure. Applicant asserts that this constitutes impermissible hindsight and the combination should be withdrawn.

For at least the foregoing reasons and in view of the above amendment, independent claim should be allowed. Claims 2-8 depend from allowable independent claim 1; therefore, Applicant respectfully asserts they should be allowed as well.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 50-3145, under Order No. 209546-84417 from which the undersigned is authorized to draw.

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Respectfully submitted,

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